

United States District Court

NORTHERN

DISTRICT OF

CALIFORNIA

UNITED STATES OF AMERICA

V.

Felipe OLEA-Avila

CRIMINAL COMPLAINT

08-70543

PVT

CASE NUMBER:

(Name and Address of Defendant)

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. On a date unknown but no later than, April 21, 2008, in Santa Clara County in the Northern District of California defendant(s)

Unlawfully re-entered and was found in the United States after deportation, without the permission of the Attorney General

in violation of Title 8 United States Code, Section(s) 1326
I further state that I am a(n) Deportation Officer and that this complaint is based on the following
Official Title
facts:

SEE ATTACHED AFFIDAVIT

PENALTIES: \$250,000.00 fine, two years imprisonment and \$100.00 special assessment fee and a Term of Supervised Release up to three years.

Requested bail: Issue no bail warrant

APPROVED AS TO FORM:

ASSISTANT UNITED STATES ATTORNEY

Continued on the attached sheet and made a part hereof: Yes No

Signature of Complainant

Sworn to before me and subscribed in my presence,

August 18, 2008

at San Jose, California

City and State

Patricia V. Trumbull
UNITED STATES MAGISTRATE JUDGE
Name & Title of Judicial Officer

Signature of Judicial Officer

Patricia V. Trumbull

RE: Felipe OLEA-Avila

A 74 335 950

I am a Deportation Officer of the United States Department of Homeland Security, Immigration and Customs Enforcement (ICE). I have been employed by this agency, U.S. Customs & Border Protection and the former Immigration and Naturalization Service (INS), since October 1, 2002. I am currently assigned to the Criminal Alien Program at the San Jose, California Sub-Office. In such capacity, I have reviewed the official immigration "A-File" relating to the above named defendant, which attests to the following:

- (1) The DEFENDANT, Felipe OLEA-Avila (A# 74 335 950), is a 38 year-old single male whose DOB is currently understood to be May 11, 1970. He is a citizen and native of Mexico as substantiated by multiple statements made to that effect by the DEFENDANT on the following dates; February 22, 2005, May 23, 2005, May 28, 2005 and August 14, 2008 during an interview that was initiated by ICE Immigration Enforcement Agent (IEA) David Vargas at the San Jose, California DRO Sub-Office;
- (2) The DEFENDANT has been assigned Alien Registration number of A 74 335 950, FBI number of 579411LB8, California Criminal State ID Number of CA12565143 and PFN Number CYH373;
- (3) On November 22, 2000, the DEFENDANT was convicted in the Superior Court of California/County of San Mateo, for the offense of: POSSESSION OF A NARCOTIC CONTROLLED SUBSTANCE, a felony, in violation of California Health and Safety Code, Section 11350(A) and sentenced to (60) days in jail;
- (4) On June 22, 2004, the DEFENDANT was convicted in the Superior Court of San Mateo, for the following felony offenses: POSSESSION OF A NARCOTIC CONTROLLED SUBSTANCE, in violation of California Health and Safety Code, Section 11350(A) and DUI W/ PRIORS, in violation of California Vehicle Code, Section 23152(B) and sentenced to (1) year in jail;
- (5) On February 22, 2005, the DEFENDANT was determined to be unlawfully present in the United States by U. S. CBP, San Ysidro, California, and was subsequently issued an Expedited Removal from the United States to Mexico;
- (6) On April 28, 2005, the DEFENDANT was determined to be unlawfully present in the United States by the DRO/ICE Field Office Director, San Diego, California, and ordered removed from the United States to Mexico;

RE: Felipe OLEA-Avila

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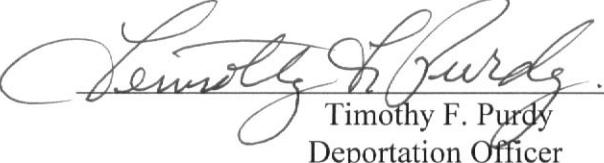
- (7) On May 16, 2005, the DEFENDANT was determined to be unlawfully present in the United States by the DRO/ICE Field Office Director, San Diego, California, and ordered removed from the United States to Mexico;
- (8) On May 23, 2005, the DEFENDANT was determined to be unlawfully present in the United States by the U.S. Border Patrol Chief, Calexico, California and ordered removed from the United States to Mexico;
- (9) On May 31, 2005, the DEFENDANT was convicted in the United States District Court/District of Arizona, for the offense of: ILLEGAL ENTRY INTO UNITED STATES, a misdemeanor, in violation of Title 8 United States Code, Section 1325 and sentenced to (75) days in jail;
- (10) On August 9, 2005, the DEFENDANT, after being determined to be unlawfully present in the United States, was removed from the United States to Mexico;
- (11) On August 14, 2008, the DEFENDANT was convicted in the Superior Court of Santa Clara, for the following misdemeanor offense: DRIVING WITH A SUSPENDED LICENSE: DUI SPECIAL CIURCUMSTANCES, in violation of California Vehicle Code Section 14601.2, and sentenced to (7) days in jail;
- (12) The DEFENDANT, on a date unknown, but no later than April 21, 2008, 2008, in Santa Clara County in the Northern District of California, was found to be unlawfully present in the United States, after prior arrests and removals/deportations, without the permission of the Attorney General or the Secretary of Homeland Security, in violation of Title 8, Section 1326. On August 14, 2008, the DEFENDANT was interviewed by (IEA) Vargas at the San Jose, California DRO Sub-Office, and during the interview, the DEFENDANT was read his **Miranda** rights in the Spanish language. The DEFENDANT declined his **Miranda** rights and provided a written sworn statement which attested to the fact that he was unlawfully present in the United States, after prior arrests and removals/deportations, without the permission of the Attorney General or the Secretary of Homeland Security;
- (13) The DEFENDANT'S official A-File does not contain any record or indication that he either requested or received permission from the Secretary of the Department of Homeland Security or the Attorney General of the United States to reenter the United States;

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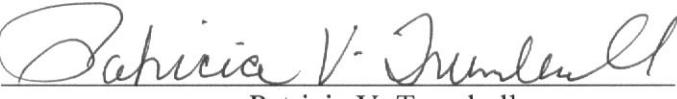
(14) On August 14, 2008, the DEFENDANT'S fingerprints were taken as part of the standard booking procedure at DRO/ICE San Jose. A latent print examiner at the Santa Clara County Sheriff's Department compared those fingerprints with fingerprints of Felipe OLEA-Avila on official documents in his Administrative File. The latent print examiner determined that the fingerprints were identical.

(15) Based on the above stated information, this Officer believes there is sufficient probable cause that the Defendant is present within the United States in violation of Title 8, United States Code, Section 1326.



Timothy F. Purdy
Deportation Officer
Immigration and Customs Enforcement

Subscribed and sworn to before me this 18 day of August, 2008



Patricia V. Trumbull
UNITED STATES MAGISTRATE JUDGE